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Contents of this No. of the National Register.

ORIGINAL—The President's Message, No. 2, 461.

SELECTED—Documents accompanying the President's Message of the 7th inst. continued, 404—Congressional Proceedings, 413.

EDITOR'S CABINET.

Washington, December 25.

PRESIDENT'S MESSAGE.

No. 2.

The doctrine upon which the government of the United States maintains itself, with regard to the refusal of the King of Spain to ratify the treaty of the 22d of February, 1819, is this: That "to refuse, with honor, to ratify what has been concluded in virtue of a full power, the sovereign must have strong and solid reasons for it, and, particularly, he must shew that his minister transcended his instructions;" which is a rule of the law of nations, and will be found in the work of Vattel, book 2, chap. 12, §156.

The duke of San Fernando and Quiroga recognises this rule; and, in his letter to Mr. Forsyth, of the 8th of October, 1819,\* he attempts, with considerable adroitness, to turn it against the minister of the United States: "The very authorities cited by you, (says he) literally declare, that the sovereign, for strong and solid reasons, or if his minister has exceeded his instructions, may refuse his ratification." Upon this point, then, we close with the Duke; and proceed at once to test the conduct of the king of Spain, by that application of the rule in question which is made of it by his own secretary for foreign affairs.

Has, then, the Spanish monarch shewn strong and solid reasons for his refusal to ratify the treaty? He has certainly shewn none. Has he shewn that his minister exceeded his instructions? It is not even pretended that he did.

If strong and solid reasons are to be shewn, or if a minister has exceeded his instructions, it is clear that the fact should be made manifest at the moment of refusing to ratify. If a different practice were allowed to prevail, there would be no limit to nego-

tiation: A treaty might be formed, rejected, renewed, rejected again, and so on, *ad infinitum*. We will here cite two precedents to the purpose: the one British, the other American.

In April, 1809, Mr. Erskine, the minister of Great Britain, at Washington, entered into an arrangement with the government of the United States, which arrangement was rejected by his Britannic majesty. At the very time of rejection, which was in the month of May following, Mr. Canning read to Mr. Pinkney, in London, *in extenso*, the instructions with which Mr. Erskine was furnished, purporting to shew that he had acted, not only not in conformity, but in direct contradiction, to them. Mr. Erskine, moreover, was immediately recalled.\*

In the year 1806, Messrs. Monroe and Pinkney concluded a treaty in behalf of the United States with certain commissioners on the part of Great Britain; and this treaty president Jefferson rejected: but he assigned, *at once*, his reasons for rejecting it, and did not hold the other contracting party in the least suspense. This was done, although the treaty had not been ratified by the king of England, and, under all the circumstances of its formation, was an *open instrument*, still subject to consideration; for Messrs. Monroe and Pinkney, in signing it, had distinctly stated their *want of power* to bind their government by a treaty which should not provide in a satisfactory manner for the subject of impressments; and the British commissioners had annexed to it a paper imposing conditions, upon the fulfilment of which the ratification of his Britannic majesty was to depend.†

But not only has the king of Spain not shewn strong and solid reasons for refusing to ratify the treaty; he has not done so much as *promise* to shew them: Nor has he shewn, or *promised* to shew, that his minister, Don Luis de Onís, exceeded his instructions. Let us attend to what passed, in this respect, between Don Manuel Gonzales Salmon and the Duke of San Fernando and Quiroga on the one side, and Mr. Forsyth on the other.

On the 18th of May, and 4th of June, 1819, Mr. Forsyth, addressing himself to the Mar-

\*See American State Papers, Wait's edition, page 230, vol. 7.

†See American State Papers, Wait's edition, vol. 6, *passim*.

\* Page 93, printed document No. 2.

quis Casa Yrujo, then in office, announced himself ready to exchange the ratifications of the treaty. To these annunciations Mr. Salmon, the successor of Yrujo, answered on the 19th of June, saying, that "his majesty is under the indispensable necessity of examining it with the greatest caution and deliberation, before he proceeds to ratify it." On the 21st of June, Mr. Forsyth renewed his request for a ratification by the Spanish monarch; to which, on the 10th of August, Mr. Salmon replied, that "a final decision could not be taken upon the treaty, without previously entering into several explanations with the government of the United States."† Mr. Forsyth, on the 12th August, again wrote to Mr. Salmon, and solicited him, "with that frankness and openness so honorable to all nations, and by which the Castilian character has been distinguished, to disclose the difficulties that appeared to interpose themselves to prevent the immediate conclusion of this affair."‡ To this application Mr. Salmon answered, on the 19th of Aug. and in the same strain that he did in his letter of the 10th of that month, that "his Catholic majesty had resolved, that no final decision could be taken upon the treaty, without previously entering into various explanations and éclaircissements with the government of the U. States of America."§ On the second of October, 1819, Mr. Forsyth addressed himself to the Duke of San Fernando, who, on the 8th of that month, tells the American minister, that his majesty will send to the government of the United States a person possessing his entire confidence, who is to smooth obstacles or remove difficulties! ||

In all this correspondence, which took place at Madrid, there is not a single word advanced, of *strong and solid reasons*, or an effort made to demonstrate that Mr. Onís, the negotiator, had *exceeded his instructions*. The whole burden of the letters of the Spanish ministers to Mr. Forsyth is, that a person would be despatched to Washington to make and receive explanations. And what does this reference to explanations imply? Why, that a treaty, concluded with a minister fully empowered to treat, and duly ratified by one of the contracting parties, is to be *re-opened* for fresh discussion.

Now this, we confidently aver, is wholly inadmissible. When President Jefferson returned the treaty which he rejected to Eng-

land, although by the circumstances of that treaty it was virtually still *under consideration*, and Messrs. Monroe and Pinkney proposed to recommence the negotiation with respect to it, Mr. Canning most vehemently objected. "The adoption of such a practice," (he says) would tend to render negotiation indefinite, and settlement hopeless, or rather, to supersede altogether the practice of negotiation through authorized commissioners, and to make every article of a compact, between state and state, the subject of repeated reference and of endless discussion." And, he adds, "It cannot be admitted that any government, after having obtained by negotiation a knowledge of the utmost extent of concession to which the other contracting party is prepared to consent in the conclusion of a treaty, it should require yet farther concession, without an equivalent, as the price of its ratification."\*

From these just views of the subject, it is evident, that if Spain *may* refuse to ratify for *strong and solid reasons*, or because her minister has *exceeded his instructions*, the king is bound to substantiate the fact, in the one case or the other, *instantly*, to the satisfaction of the government of the United States: And that failing to do so, as the king of Spain has, the other alternative of the rule of the law of nations becomes absolute, namely: that he cannot, with honor, refuse to ratify the treaty; and that, not having ratified it, he is *outlawed of his honor*, and the United States, as the faithful party to the contract, may proceed to execute the treaty *in contempt of the king's sanction*.

Even supposing that a renewed discussion of the treaty were admissible, there is every reason to believe that the King of Spain is not sincere in his professions. On the 10th of August, 1819, Mr. Salmon informed Mr. Forsyth, that "a person possessing all the qualifications necessary," would be despatched to Washington, to bring "this interesting trust to a happy conclusion."† Yet, on the 8th of October, about two months afterwards, according to the duke of San Fernando,‡ this personage had not been nominated to the mission; and, to this day, we have heard nothing certain of the appointment of such an ambassador.

Again: Mr. Salmon tells Mr. Forsyth, that explanations cannot be entered into at Ma-

\* Page 79, printed document No. 2.

† Page 83, printed document No. 2.

‡ Page 83, printed document No. 2.

§ Page 86, printed document No. 2.

|| Page 95, printed document No. 2.

\* American State Papers, Wait's edition, pages 418, 419, vol 6

† Page 83, printed document No. 2.

‡ Page 93, printed document No. 2.

drid, "on account of the want of time." But surely, if there was time to send an agent to Washington, there was time to explain to Mr. Forsyth at Madrid, and to receive from him explanations. Mr. Forsyth had informed Mr. Salmon, that he was "fully instructed by the government of his country upon the only point on which it can have given a motive for explanations."† Mr. Onís was likewise at Madrid; the man who, as Mr. Salmon confesses, was "thoroughly possessed of the whole course of the negotiation."‡ Why, therefore, not perfect the business there?

Furthermore; the Duke of San Fernando, allying to the "weighty considerations" which had obliged the king to defer the ratification, asserts that these considerations had been already stated to Mr. Forsyth, by Don Manuel Gonzales Salmon;§ whereas Mr. Salmon nowhere particularizes them!

From these inconsistencies and misrepresentations, what can be inferred? Beyond a doubt it must be pronounced, that the king of Spain has been dealing with the United States upon frivolous and false pretences.

The Duke of San Fernando, in his letter to Mr. Forsyth of the 8th of October, 1819, seizes upon one circumstance, which, if true in his sense of it, would give to the conduct of the king of Spain in this affair some color of propriety. It is, that the United States, at the moment when they demand the ratification of the treaty, insist upon a declaration, "which totally annuls one of its most clear, precise, and conclusive, articles."|| Now, this is *not the truth*. The declaration which Mr. Forsyth was instructed to present with the treaty, neither annulled nor varied a single article, or clause of an article, of that instrument. It was a written paper, merely declaratory of the intention of the American government with regard to three grants of land, which, by the terms of the treaty, were already void. To render this fact more evident, we here insert, at large, the article by which they are excluded. It is the 8th of the treaty as agreed upon:

"ARTICLE VIII. All the grants of land, made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said Territories ceded by His Majesty to the United States, shall be ratified and confirmed, to the persons in possession of the lands, to the same extent that the same grants would be valid if the Territories had remained under the dominion of his Catholic Majesty. But the owners in possession of such lands who, by reason of the recent circumstances of the Spanish Nation, and the revolutions in Europe, have been

prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this Treaty; in default of which, the said grants shall be null and void. All grants made since the said 24th of January, 1818, when the first proposal on the part of His Catholic Majesty, for the cession of the Floridas, was made, are hereby declared and agreed to be null and void."

By this article, it will be seen, if the grants to the Duke of Alagon, the count Puno Rosstro, and Mr. Vargas, are of a date "since the 24th of January, 1818," they are declared and agreed to be null and void.—Under this part of the article the grantees obviously had no chance of obtaining their object. Nor can they fare better under the preceding part of the article: for they are not persons in possession of the lands granted to them: they are not owners in possession of such lands who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling the conditions of their grants." The grants were made subsequent to those circumstances and those revolutions.

The declaration which Mr. Forsyth was instructed to present, was, in effect, a fair interpretation of the 8th article of the treaty, which might have been given after the exchange of ratifications as well as before it, but which it was more honest and honorable to give in the first instance; and it is perfectly consistent with the general maxim laid down by Vattel, in \*268, book 2, chap. 17, where he says, that "the interpretation of every act, and of every treaty, ought to be made according to certain rules, proper to determine the sense of them, such as the parties concerned must naturally have understood when the act was prepared and accepted." This was exactly the case with respect to the declaration in question. It interpreted, (but did not annul,) the 8th article, as the parties understood it when it was prepared and accepted. Mr. Neuville and Mr. Onís unequivocally acknowledge the fact.

The United States have, themselves, admitted a declaration, on the acceptance of a treaty, where they might have assumed a reasonable ground for opposing it. We allude to the convention with Great Britain of the 3d of July, 1815, by the 3d article of which, the vessels of the United States were allowed to touch for refreshment at the Island of St. Helena. Upon the exchange of the ratifications of this convention, Mr. Anthony St. John Baker presented a written "Declaration," which was accepted, stating, that St.

\* Page 87, printed document No. 2.

† Page 85, printed document No. 2.

‡ See page 87, printed document No. 2.

§ Page 95, printed document No. 2.

\* Page 94, printed document No.

Helena having been selected for the future residence of Napoleon Bonaparte, "it had become impossible to comply with so much of the third article of the treaty as relates to the liberty of touching for refreshment at the Island of St. Helena."<sup>\*</sup>

The implication of the government of the United States, by the Duke of San Fernando, in the "expedition directed against the province of Texas,"† is a most despicable subterfuge from the odium incurred by the king's refusal to ratify the treaty. The Duke confesses that he possessed nothing more than "general information" on the subject, such as may be derived by any body from "newspapers" and loosely and lightly written letters. That a Spanish grandee and statesman should resort to such a source of information, wherefrom to derive cause of accusation of the American government, is superlatively ludicrous. As the president's message distinctly alleges, the charge "is utterly without foundation." The Philadelphia Aurora and the Lexington (Kentucky) Reporter, with one or two other maniac prints, indeed, rather countenanced and encouraged the mad adventure of the self-constituted general Long; but we do not believe that any editor of a newspaper in the United States, of established veracity and known ability, ever looked upon that project in any other light than a hair-brained scheme of a few restless and thoughtless individuals. So long as government did not sanction their proceedings, it could not be held responsible for their actions; and nothing more forcibly proves the insincerity of the king of Spain, than the duke of San Fernando's fixing upon this circumstance as a means of justifying his Catholic Majesty. Rather let us seek for the motive of the refusal to ratify the treaty, in that confession of the duke's, which, from the smooth dexterity of his style, must have involuntarily escaped him. The object of the treaty, he says, has, "unfortunately not been attained." This object he represents to be "reciprocal utility and confidence;" which, in plain English, implies, that the U States should take the *naked sovereignty* of the Floridas, and surrender all the vacant lands to Alagon, Punon Rostro, and Vargas, besides satisfying the claims of our own citizens on the Spanish government: In other words, that the United States should permit themselves to be cheated, and pay the debts of Spain, notwithstanding she is the cheater.

The Duke of San Fernando and Quiroga

is very sharp upon Mr. Forsyth, because the latter told him that the instructions of Mr. Onís were well known to the American government. The duke affectedly takes fire at this, and will not believe that Mr. Onís either violated secrecy or that the government of the United States bribed the secret from him.\* But without conjuration or magic, it may be easily discerned how the American executive procured a knowledge of those instructions. Mr. Salmon furnishes a very good clue for explaining the apparent mystery. "It is a fact of general notoriety (says Mr. Salmon to Mr. Forsyth) and must therefore be well known to you, that, as soon as the treaty concluded between his Catholic majesty and the government of the United States was received here, and its stipulations became known, this important subject was taken into the most serious consideration by the king my master." If then, the deliberations of the king, in affairs of this importance, are of such "general notoriety," what difficulty would there be in acquiring an intimate knowledge of the instructions given to a minister? Above all, instructions to treat, involving the titles to large grants of land, in which, it is likely, many persons are interested, might be ascertained more readily in consequence of the anxious inquiries of those connected in the affair with the three favorite grantees; and, let it be remembered, that it would require something thicker than gauze to prevent the keen eye of Mr. Erving from penetrating through the Spanish curtain of State.

\* Page 94, printed document No. 2.

† Page 86, printed document No. 2.

Documents transmitted to both houses of Congress with the message of the President of the 7th Dec. 1819. No. 2. CONTINUED.

† Paper received by the Secretary of State, from Mr. Hyde de Neuville, 16th Feb 1819

† Mr. De Onís being at this time confined by indisposition, at his request Mr. Hyde de Neuville had a personal interview with the Secretary of State, on the 15th February, at which there was a full and free discussion of the project of Mr. De Onís, delivered February 9th, and of the counter project communicated by him to Mr. De Onís, February 13th. Immediately after this interview, Mr. De Neuville reduced to writing this paper, in which are noted the objections to Mr. de Onís to parts of the counter project, the replies to those objections by the Secretary of State, and the points to which both parties were agreed. He sent a copy of the paper the next morning to the Secretary of State, and another copy to Mr. De Onís. Being intended merely as a private minute, that both parties might be satisfied of the correctness in which their respective remarks were stated, it was drawn up partly in French, and partly in our own language. The passages here marked with asterisks

\* See the Acts, &c. of the 1st session of the 14th Congress, page 161.

† Page 95, printed document No. 2.



are in English in the original paper. The rest is translated.

The minutes upon the 8th article, compared with the draft in the project of Mr. de Onis, with that of the counter project by the Secretary of State, and with the article, as finally expressed in the treaty, fully elucidate the understanding of the parties that the grants of land, dated before, as well as after, the 24th January, 1818, were annulled, excepting those upon which settlements had been commenced; the completion of which had been prevented by the circumstance of Spain, and the recent revolutions in Europe.

## [TRANSLATION.]

## Remarks of the Chevalier de Onis.

Article 1. Agreed.\*

Article 2. Requires a more explicit explanation.

Article 3. The Chevalier Onis requires, that the boundary between the two countries shall be the middle of the rivers, and that the navigation of the said rivers shall be common to both nations.

## Remarks of the Secretary of State.

[The Secretary of State maintains, that the United States have always intended that the property of the river should belong to them. He insists on this point, as an essential condition, as the means of avoiding all collision, and as a principle adopted henceforth by the Union, in its treaties with its neighbors. He agrees, however, that the navigation of the said rivers to the sea shall be common to both people. The Secretary of State conceives, that in this clause there is nothing humiliating to Spain, as seemed to be thought; since it is not intended to impose on her an onerous stipulation, but to fix a territorial limit, which, in fact might be extended beyond the rivers mentioned. He considers this clause as indispensable, and as eminently calculated to preserve a good understanding between the two people.]

The minister of Spain agrees to the 100th degree of longitude, and, to remove all difficulties, to admit the 42d instead of the 43d degree of latitude from the Arkansas to the Pacific Ocean.—[Agreed.]

Article 4. Agreed, as proposed by the Secretary of State.

Article 5. Agreed.

Article 6. Agreed.

Article 7. Agreed, with the addition that the United States shall furnish transports, and the necessary escort for conveying the aforesaid troops of his Catholic Majesty and their baggage, to the Havana [Agreed].\*

Article 8. This article cannot be varied from what is contained in the Chevaliers project, as the object of the last clause therein is merely to save the honor and dignity of the sovereignty of his Catholic Majesty.

[Agreed, with the following explanation: that all grants of land which shall not be annulled by this Convention, are valid to the same extent as they are binding on his Catholic Majesty.]\*

## REMARKS.

The Secretary of State observed to me, that the Federal Government would, most assuredly, never entertain the idea of disturbing individuals who were vested with a bona fide title to their property; but, as a Treaty ought not to cover fraudulent practices, so, no more could be asked of the United States than could be offered by his Catholic Majesty; that, being, in this case, substituted for his Majesty, they would scrupulously fulfil their engagements; but that more could not be expected of him.

The Secretary of State even proposes, if Mr. de Onis wishes it, that the article shall be inserted in the Treaty, as proposed by the Minister of Spain, on condition that the above explanation shall be given in the form of a note. The Federal Government, unwilling to leave any thing in a state of doubt or uncertainty, only wishes to place, on the most secure footing, whatever is just and honorable; and is, at the same time, perfectly satisfied that his Catholic Majesty neither asks nor wishes more.

Article 9. Mr. de Onis requires that the articles should run thus:—

“To all claims of citizens of the United States upon the government of Spain, arising from a [un] lawful seizure at sea, and in the ports or territories of his Catholic Majesty, in Spain or in his colonies.” [Agreed].\*

and the high contracting parties respectively renounce all claims to indemnities for any of the recent events; or transactions, of their respective commanders and officers in the Floridas.\*

To the above claim Mr. de Onis adds, that the United States will satisfy all the just claims which the inhabitants and Spanish officers of the Floridas may have sustained by the operations and proceedings of the American army, as is customary with the citizens of the United States under similar circumstances. [Agreed].\*

Article 10. Agreed, as it is proposed by the Secretary of State. [Agreed].\*

Article 11. The Chevalier desires that the stipulation of five millions of dollars contained in this article may be stricken out, for he is aware that the territories ceded are sufficient to pay triple that sum, and, by agreeing to that stipulation, it would appear that Spain, in consideration only of the said amount, has ceded the two Floridas and other territories, when she would not have ceded them for twenty millions, were it not her desire to arrange and terminate all differences with the United States.

[The Secretary of State does not appear to find a positive objection to agreeing to the alteration required: however, as he conceives this article to be more important to the United States than to Spain, he will examine the question, and see whether the Minister of Spain may or may not be agreed to.]

The remaining parts of the article are agreed to. [Agreed.]

Articles 12, 13, 14 and 15.—[Agreed].\*

Article 16. [Agreed].\*

## REMARKS.

This article, which I have not before me, is, I believe, that in which Mr. de Onis requires that American vessels shall only receive clearances for a specified port. It appears that this article cannot be assented to by the Federal government, and is, therefore, as observed by Mr. Adams, wholly inadmissible in the present treaty.

Article 17.—Mr. de Onis requires that Spanish vessels shall be admitted for twelve years into all the ports of the ceded territories, upon the same footing as the vessels of the United States.

[Agreed, as to the ports of St. Augustine and Pensacola.]

2. That no nation shall enjoy the like privilege during the said term of twelve years. [Agreed.]

3. That, at the expiration of the said term, Spanish vessels shall be received in said territories on the same footing as the most favored nations.—[Refused.]

N. B. It is agreed, by both parties, that the article stipulating the cession of the Floridas shall be so

named as to cover the honor of both countries, and prove that the treaty is an amicable transaction, divested of all mental reservations, disguise, or recrimination.

The writer of these hasty notes believes that he perfectly comprehended, and has faithfully stated, the conversation he had this morning with the Secretary of State.

He will be equally attentive in stating to-morrow the answer of the Minister of Spain. He flatters himself that all obstacles are nearly removed, and he deems it no small satisfaction, in having been invited, by the confidence manifested in him by both parties, to co-operate, however feebly, in an event which cannot fail to have a powerful influence on the peace and happiness of both hemispheres.

Washington, 15th February, 1819.

G. H. de N.

Mr. de Neuville to the Secretary of State.

Mr. de Neuville has the honor to present his respects to Mr. Adams, and to enclose the statement hastily drawn up by him yesterday evening. Mr. de Neuville believes he has omitted nothing of what Mr. Adams did him the honor to communicate to him. He will see Mr. Onís to-day at 1 o'clock, and afterwards, that is, between 2 and 3, he will call at the office of the Department and hand to Mr. Adams the project sent to him by Mr. de Onís. Mr. de N. hopes that Mr. de Onís will remove the remaining important difficulties, or which nothing on the part of Mr. de N. will be omitted. He avails himself with pleasure of this occasion to offer to Mr. Adams the renewed assurances of his high consideration.

Washington, 15th February, 1819.

JAMES MONROE,

PRESIDENT OF THE UNITED STATES.

To all whom these presents shall concern, Greeting:

Know all, That I have given and granted, and do hereby give and grant, to John Quincy Adams, Secretary of State of the United States, full power and authority, and also a general and special command, to meet and confer with the Envoy Extraordinary and Minister Plenipotentiary of his Catholic Majesty residing in the United States, being furnished with the like full powers of and concerning the limits between the territories of the United States and those of his said Catholic Majesty in North America, and any mutual cessions of part of the same; of and concerning all matters of difference between the United States and his Catholic Majesty; and concerning the relations of navigation and commerce between the said United States and his Catholic Majesty; and to conclude a treaty touching the premises, for the final ratification of the President of the United States, by and with the advice and consent of the Senate thereof, if such advice and consent be given.

In testimony whereof, I have caused the seal of the United States to be hereunto affixed. Given under my hand at the City of Washington, the sixteenth day of February, A. D. 1819, and of the Independence of the United States the forty third.

JAMES MONROE.

By the President:

JOHN QUINCY ADAMS, Sec. of State.

\* The passages marked thus (\*) are in English in the paper received from Mr. de Neuville.

[TRANSLATION.]

Full power of the King of Spain to Don Luis De Onís

Don Ferdinand, by the grace of God, King, &c. &c. desiring to consolidate the friendship and good understanding which happily prevails between my kingdoms and the United States of America, through the mutual interests existing between the two governments, and reposing full confidence in you, Don Luis de Onís, Knight of the Royal and distinguished Order of Charles the Third, and my Minister Plenipotentiary to the United States of America, by reason of your fidelity, distinguished zeal and approved capacity, in the arduous concerns committed to you, have granted, and by these presents do grant to you full power, in the most ample form, to treat, of yourself and without other intermediate authority with such person or persons as may be authorized by the President of the United States, and on the principles of the most perfect equality and fitness, to conclude and sign a Treaty of Amity, whereby past differences may be adjusted, and a firm and lasting peace established between the two governments. Obliging ourselves, as we do hereby oblige ourselves, and promise on the faith and word of a King, to approve, ratify, and ful, and to cause to be inviolably observed and fulfilled, whatsoever may be stipulated and signed by you; to which intent and purpose, I grant you all authority and full power, in the most ample form, thereby and of right required.

In faith whereof, we have given command to issue the present, signed with our royal hand, sealed with our privy seal, and countersigned by our under-written First Secretary of State and of Universal Despatch.

Given at Madrid the tenth day of Sept. 1816.

[Signed] FERDINAND.

[Countersigned] PEDRO CEVALLOS.

# TREATY OF AMITY, SETTLEMENT AND LIMITS.

Between the United States of America and his Catholic Majesty.

The United States of America, and his Catholic Majesty, desiring to consolidate, on a permanent basis, the friendship and good correspondence which happily prevails between the two parties, have determined to settle and terminate all their differences and pretensions, by a treaty, which shall designate, with precision, the limits of their respective bordering territories, in North America.

With this intention, the President of the United States has furnished with their full powers John Quincy Adams, Secretary of State of the said U. States; and his Catholic Majesty has appointed the Most Excellent Lord Don Luis de Onís Gonsalez Lopezly Vara, Lord of the Town of Rayaces, Perpetual Regidor of the Corporation of the City of Salamanca, Knight Grand Cross of the Royal American Order of Isabella the Catholic, decorated with the Lyn of La Veedee, Knight Pensioner of the Royal and distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said Royal Order, of the Council of his Catholic Majesty; his Secretary with exercise of Decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America.

And the said Plenipotentiaries, after having exchanged their powers, have agreed upon and concluded the following articles:

Article. 1 There shall be a firm and inviolable peace and sincere friendship, between the United

States and their citizens, and His Catholic Majesty, his successors, and subjects, without exception of persons or places.

Art. 2. His Catholic Majesty cedes to the United States, in full property and sovereignty, all the territories which belong to him, situated to the eastward of the Mississippi, known by the name of East and West Florida. The adjacent islands, dependent on said provinces all public lots and squares, vacant lands, public edifices, fortifications, barracks, and other building, which are not private property, archives and documents, which relate directly to the property and sovereignty of said provinces, are included in this article. The said archives and documents shall be left in possession of the commissaries, or officers of the U States, duly authorised to receive them.

Art. 3. The boundary line between the two countries, west of the Mississippi, shall begin on the Gulf of Mexico, at the mouth of the river Sabine, in the sea, continuing north, along the western bank of that river, to the 32d degree of latitude; thence, by a line due north, to the degree of latitude where it strikes the Rio Roxo, of Natchitoches, or Red river; then following the course of the Rio Roxo, westward, to the degree of longitude 100 west from London, and 25 from Washington; then, crossing the said Red river, and running thence, by a line due north, to the river Arkansas; thence, following the course of the southern bank of the Arkansas, to its source, in latitude 42 north; and thence, by that parallel of latitude, to the South Sea. The whole being as laid down in Melish's map of the United States, published at Philadelphia, improved to the first of January, 1818. But, if the source of the Arkansas river shall be found to fall north, or south, of latitude 42, then the line shall run from the said source due south or north, as the case may be, till it meets the said parallel of latitude 42, and thence, along the said parallel, to the South Sea: all the islands in the Sabine and the said Red and Arkansas rivers, throughout the course thus described to belong to the United States; but, the use of the waters and navigation of the Sabine, to the sea, and of the said rivers Roxo and Arkansas, throughout the extent of the said boundary, on their respective banks, shall be common to the respective inhabitants of both nations. The two high contracting parties agree to cede and renounce all their rights, claims, and pretensions to the territories described by the said line, that is to say: The United States hereby cede to His Catholic Majesty, and renounce forever, all their rights, claims, and pretensions to the territories lying west and south of the above described line; and, in like manner, His Catholic Majesty cedes to the said United States all his rights, claims, and pretensions to any territories east and north of the said line, and, for himself, his heirs, and successors, renounces all claim to the said territories forever.

Art. 4. To fix this line with more precision, and to place the landmarks which shall designate, exactly, the limits of both nations, each of the contracting parties shall appoint a commissioner and a surveyor, who shall meet before the termination of one year from the date of the ratification of this treaty, at Natchitoches, on the Red river, and proceed to run and mark the said line, from the mouth of the Sabine to the Red river, and from the Red river to the river Arkansas, and to ascertain the latitude of the source of the said river Arkan-

sas, in conformity to what is above agreed upon and stipulated, and the line of 42, to the South Sea; they shall make out plans, and keep journals of their proceedings, and the result agreed upon by them shall be considered as part of this treaty, and shall have the same force as if it were inserted therein. The two governments will amicably agree respecting the necessary articles to be furnished to those persons, and also to their respective escorts, should such be deemed necessary.

Art. 5. The inhabitants of the ceded territories shall be secured in the free exercise of their religion, without any restriction, and all those who may desire to remove to the Spanish dominions shall be permitted to sell or export their effects at any time whatever, without being subject, in either case, to duties.

Art. 6. The inhabitants of the territories which His Catholic Majesty cedes to the United States, by this treaty, shall be incorporated in the Union of the United States: as soon as may be consistent with the principles of the Federal Constitution, and admitted to the enjoyment of all the privileges, rights, and immunities of the citizens of the United States.

Art. 7. The officers and troops of His Catholic Majesty, in the territories hereby ceded by him to the United States, shall be withdrawn, and possession of the places occupied by them shall be given, within six months after the exchange of the ratification of this treaty, or sooner, if possible, by the officers of His Catholic Majesty, to the commissioners or officers of the United States, duly appointed to receive them; and the United States shall furnish the transports and escort necessary to convey the Spanish officers and troops, and their baggage, to the Havana.

Art. 8. All the grants of land made before the 24th of January, 1818, by His Catholic Majesty, or by his lawful authorities, in the said territories ceded by His Majesty to the United States, shall be ratified and confirmed to the persons in possession of the lands, to the same extent that the same grants would be valid if the territories had remained under the dominion of His Catholic Majesty. But the owners in possession of such lands, who, by reason of the recent circumstances of the Spanish nation, and the revolutions in Europe, have been prevented from fulfilling all the conditions of their grants, shall complete them within the terms limited in the same, respectively, from the date of this treaty; in default of which, the said grants shall be null and void. All grants made since the said 24th January, 1818, when the first proposal on the part of His Catholic Majesty, for the cession of the Floridas, was made, are hereby declared and agreed to be null and void.

Art. 9. The two high contracting parties, animated with the most earnest desire of conciliation, and with the object of putting an end to all the differences which have existed between them, and of confirming the good understanding which they wish to be forever maintained between them, reciprocally renounce all claims for damages or injuries which they themselves, as well as their respective citizens and subjects, may have suffered, until the time of signing this treaty.

1. The renunciation of the United States will extend to all the injuries mentioned in the Convention of the 11th Aug 1802.
2. To all claims on account of prizes made by French privateers and condemned by French con-

suls, within the territory and jurisdiction of Spain.

3. To all claims of indemnities on account of the suspension of the right of deposit, at New Orleans, in 1802.
4. To all claims of citizens of the United States upon the Spanish government, statements of which, soliciting the interposition of the government of the United States, have been presented to the Department of State, or to the Minister of the United States, in Spain, since the date of the Convention, in 1802, and until the signature of this treaty.

The renunciation of His Catholic Majesty extends.

1. To all the injuries mentioned in the Convention of the 11th Aug. 1802
2. To the sum which His Catholic Majesty advanced for the return of capt. Pike from the Provincias Internas.
3. To all injuries caused by the expedition of Miranda that was fitted out and equipped at New York.
4. To all claims of Spanish subjects upon the Government of the United States, arising from unlawful seizures at sea, or within the ports or territorial jurisdiction of the U. States.

Finally, to all the claims of subjects of his Catholic Majesty upon the Government of the United States, in which the interposition of His Catholic Majesty's Government has been solicited, before the date of this treaty, and since the date of the Convention of 1802, or which may have been made to the Department of Foreign Affairs of His Majesty, or to his Minister in the U. States.

And the high contracting parties respectively renounce all claim to indemnities for any of the recent events or transactions of their respective commanders and officers in the Floridas.

The United States will cause satisfaction to be made for the injuries, if any, which, by process of law, shall be established to have been suffered by the Spanish officers and individual Spanish inhabitants, by the late operations of the American army in Florida.

Art. 10. The Convention entered into between the two Governments, on the 11th Aug. 1802, the ratifications of which were exchanged the 21st Dec. 1818, is annulled.

Art. 11. The United States, exonerating in Spain from all demands in future, on account of the claims of their citizens, to which the renunciations herein contained extend, and considering them entirely cancelled, undertake to make satisfaction for the same, to an amount not exceeding five millions of dollars. To ascertain the full amount and validity of those claims, a commission, to consist of three commissioners, citizens of the United States, shall be appointed by the President, by and with the advice and consent of the Senate: which commission shall meet at the City of Washington, and, within the space of three years from the time of their first meeting, shall receive, examine, and decide upon the amount and validity of all the claims included within the descriptions above mentioned. The said commissioners shall take an oath or affirmation, to be entered on the record of their proceedings, for the faithful and diligent discharge of their duties, and in case of the death, sickness, or necessary absence, of any such commissioner, his place may be supplied by the appointment, as a-

foresaid, or by the President of the United States, during the recess of the Senate, of another commissioner in his stead. The said commissioners shall be authorised to hear and examine, on oath, every question relative to the said claims, and to receive all suitable authentic testimony concerning the same. And the Spanish Government shall furnish all such documents and elucidations as may be in their possession, for the adjustment of the said claims, according to the principles of justice, the laws of nations, and the stipulations of the treaty between the two parties, of 27th October, 1795; the said documents to be specified, when demanded, at the instance of the said commissioners.

The payment of such claims as may be admitted and adjusted by the said commissioners, or the major part of them, to an amount not exceeding five millions of dollars, shall be made by the U. States, either immediately at their Treasury, or by the creation of stock bearing an interest of six per cent. per annum, payable from the proceeds of sales of public lands within the territories hereby ceded to the United States, or in such other manner as the Congress of the United States may prescribe by law.

The records of the proceedings of the said commissioners, together with the vouchers and documents produced before them, relative to the claims to be adjusted and decided upon by them, shall, after the close of their transactions, be deposited in the Department of State of the United States; and copies of them, or any part of them, shall be furnished to the Spanish government, if required at the demand of the Spanish Minister in the U. States;

Art. 12. The treaty of limits and navigation of 1795, remains confirmed in all and each one of its articles, excepting the 2d, 3d, 4th, and 21st, and the 2d clause of the 22d article, which, having been altered by this treaty, or having received their entire execution, are no longer valid.

With respect to the 15th article of the same treaty of friendship, limits, and navigation of 1795, in which it is stipulated that the flag shall cover the property, the two high contracting parties agree, that this shall be so understood with respect to those powers who recognise this principle; but, if either of the two contracting parties shall be at war with a third party, and the other neutral, the flag of the neutral shall cover the property of enemies whose government acknowledge this principle, and not of others.

Art. 13. Both contracting parties, wishing to favor their mutual commerce, by affording in their ports every necessary assistance to their respective merchant vessels, have agreed, that the sailors who shall desert from their vessels in the ports of the other shall be arrested and delivered up, at the instance of the Consul, who shall prove, nevertheless, that the deserters belonged to the vessels that claimed them, exhibiting the document that is customary in their nation; that is to say: The American consul, in a Spanish port, shall exhibit the document known by the name of articles; and the Spanish consul, in American ports, the roll of the vessel; and if the name of the deserter or deserters, who are claimed, shall appear in the one or the other, they shall be arrested, held in custody, and delivered to the vessel to which they shall belong.

Art. 14. The United States hereby certify, that they have not received any compensation from France for the injuries they suffered from her privateers, consuls, and tribunals, on the coasts and in



the ports of Spain, for the satisfaction of which provision is made by this treaty; and they will present an authentic statement of the prizes made, and their true value, that Spain may avail herself of the same, in such manner as she may deem just and proper.

Art. 15: The United States, to give His Catholic Majesty a proof of their desire to cement the relations of amity subsisting between the two nations, and to favor commerce the subjects of H. C. Majesty, agree that Spanish vessels, coming laden only with productions of Spanish growth or manufactures, directly from the ports of Spain or of her colonies, shall be admitted, for the term of twelve years, to the ports of Pensacola and St. Augustine, in the Floridas, without paying other or higher duties on their cargoes, or tonnage, than will be paid by the vessels of the United States. During the said term no other nation shall enjoy the same privileges, within the ceded territories. The twelve years shall commence three months after the exchange of the ratifications of this treaty.

Art. 16. The present treaty shall be ratified in due form, by the contracting parties and the ratifications shall be exchanged in six months from this time, or sooner, if possible.

In witness whereof, we, the underwritten Plenipotentiaries of the United States of America and of his Catholic Majesty, have signed, by virtue of our powers, the present treaty of amity, settlement and limits, and have there unto affixed our seals respectively.

Done at Washington, this twenty-second day of February, 1819.

[Seal.] JOHN QUINCY ADAMS:  
[Seal.] LUIS DE ONIS.

Resolution of the Senate, advising Ratification.

In Senate of the United States, }  
February, 24th, 1819. }

Resolved, Two-thirds of the Senators present concurring therein, that the Senate do advise and consent to the ratification of the Treaty of Amity, Settlement, and Limits, made and concluded at Washington, on the 22d day of February, 1819, between the United States and his Catholic Majesty.

Attest, CHARLES CUTTS, Sec'y.

Ratification by the President of the U. States.

James Monroe, President of the United States of America, to all and singular who shall see these presents, greeting: Whereas a Treaty of Amity, Settlement, and Limits, between the United States of America and his Catholic Majesty, was concluded and signed between their Plenipotentiaries, in this city, on the 22d day of the present month of February, which Treaty is word for word, as follows — (See copy herewith transmitted.) And whereas the Senate of the United States, by their resolution, on the 24th day of the same month, two thirds of the Senators then present concurring, did advise and consent to the ratification of the said Treaty:

Now, therefore, I, James Monroe, President of the United States of America, having seen and considered the Treaty above recited, do, in pursuance of the aforesaid advice and consent of the Senate of the United States, by these presents accept, ratify, and confirm the said Treaty, and every clause and article thereof, as the same are hereinbefore set forth.

In faith whereof, I have caused the seal of the United States of America to be hereto affixed. Given under my hand, at the City

[L. s.] of Washington, this twenty-fifth day of February, in the year of our Lord one thousand eight hundred and nineteen, and of the Independence of the said States the forty-third.

JAMES MONROE.

General instructions to Mr. Forsyth, Minister Plenipotentiary to Spain.

Department of State, }  
Washington, 8th March, 1819. }

John Forsyth.

Sir: The treaty of amity, settlement, and limits, between the United States and Spain, concluded on the 22d ultimo, and ratified on the part of the United States, having provided for the adjustment of all important subjects of difference between the two nations, the first object of your mission will be to obtain the ratification of the Spanish government, and receive it in exchange for ours, the authentic instrument of which is committed to your charge. The United States' ship Hornet, captain Read, is in readiness at Boston, and orders have been despatched under which you will take passage in her for Cadiz. It is desirable that you should embark without delay. On your arrival in Spain, the Hornet will remain at Cadiz, subject to your orders, until the exchange of the ratifications can be effected. And if, as is anticipated, no obstacle should intervene to delay that transaction, you will, upon receiving the Spanish ratified copy, immediately forward it to captain Read, with directions to bring it immediately to the United States. As the ulterior destination of the Hornet will be the Gulph of Mexico, the port to which it will be advisable for him to come, will be New-York.

On exchanging the ratifications, certificates of the fact will be mutually executed and delivered by you and the Spanish Minister with whom you will make the exchange. Copies of that which passed, in both languages, on the exchange of the ratifications of the convention of the 11th August, 1802, are now furnished you, and will serve as forms, to be used in the performance of this ceremony. On this occasion, as upon all others upon which you may have occasion to execute any document, joint, or reciprocal, with a foreign Minister of State, you will be careful to preserve the right of the United States to the alternative of being first named, and your own right, as their representative, to sign first in the papers executed; while, in the counterparts, the other contracting party will be named first, and the foreign Minister will first sign and seal. A rigid adherence to this practice has become necessary, because it is strictly adhered to by all the European sovereigns, in their compacts with one another; and, because the United States having heretofore sometimes forborne to claim this conventional indication of equal dignity, some appearance of a disposition to allege the precedent against them, as affecting their right to it, was manifested by the British plenipotentiaries, on executing the convention of 3d July, 1815, and by Mr. de Onis at the drawing up and signing of this treaty. The scruple was, however, in both cases abandoned, and the right of the United States to the alternative was conceded. It is not expected that it will hereafter be questioned, and you will consider it as a standing instruction to abide by it in the execution of any instrument of compact, which, as a public minister of the United States, you may be called to sign.

After the exchange of the ratification, your attention will be directed to the object of carrying the provisions of the treaty into effect. The orders for the evacuation, by the Spanish officers and troops, of the places occupied by them in the Floridas, will, no doubt, be immediately issued, and, as the transports and escorts for conveying them to the Havana, are to be furnished by the United States, it is hoped you will obtain copies of the orders, and transmit them here with the ratification of the treaty. You will think it advisable to keep the Spanish government reminded of the necessity to include in the orders for the delivery of possession, that of all the archives and documents relating to the dominion and sovereignty. The appointment of a commissioner and surveyor, for running the line of the western boundary, must also be kept in remembrance, and notice given to us as soon as possible after their appointment. You will collect from the archives of the legation at Madrid, all the documents relating to the claims of citizens of the United States upon the Spanish government, which have been deposited there, and which come within the description of claims to be exhibited to the commissioners, under the 11th article of the treaty. You will send all these documents, together with the ratified treaty, to this department, retaining descriptive lists of them, and, if necessary, copies of such papers for which no equivalent substitute could be produced in case of their being lost. Should you have reason to believe that any documents which you should be able to specify, were in possession of the Spanish government, tending to elucidate any of these claims, you will endeavor to obtain them. The treaty provides that they shall be furnished at the demand of the commissioners. But, as much time may be saved, if they can be sent here to be ready when the commission will be organized, and commence the exercise of its functions, you will, should the occasion present itself, use your endeavors to that effect.

Certificate of Exchange of Ratifications, referred to in the preceding Instructions.

We, John Quincy Adams, secretary of state of the United States of America; and Don Luis de Onis Gonzales Lopez y Vara, Lord of the town of Rayaces, Macadina, and Lagatera, Member of different Academies and Societies, both national and foreign, perpetual Regidor of the corporation of the city of Salamanca, Knight Grand Cross of the royal American Order of Isabella the Catholic, decorated with the Lys of La Vendee, Knight Pensioner of the royal and distinguished Spanish Order of Charles the Third, Member of the Supreme Assembly of the said Royal Order of the Council of his Catholic Majesty, his Secretary with exercise of decrees, and his Envoy Extraordinary and Minister Plenipotentiary near the United States of America—certify that the ratifications of the convention between the said U. States of America and his said Majesty, concluded on the eleventh day of August, one thousand eight hundred and two, accompanied with all suitable solemnities; and, after due comparison each with the other, and with the original examples of the convention, have been exchanged by us this day.

In witness whereof, we have signed this act in triplicates, and have sealed the same with our respective seals, at the City of Washington, this twenty-first day of December, one thousand eight hundred and eighteen.

JOHN QUINCY ADAMS, [L. S.]

LUIS DE ONIS, [L. S.]

The Secretary of State to Don Luis de Onis.

Department of State,

Washington, 10th March, 1819.

Don Luis de Onis, Envoy Extraordinary and Minister Plenipotentiary from Spain:

Sir: By the eighth article of the treaty of amity, settlement, and limits, signed by us on the 22d of last month, all grants of land in the Floridas, made by his Catholic Majesty, or his legitimate authorities in those provinces, subsequent to the 24th of January, 1818, are declared to be null and void. This date, as you will recollect, was agreed to on the part of the United States, with a full and clear understanding between us, that it included the grants alleged to have been made in the course of the preceding winter, by the King, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas. As these grants, however, are known to the government of the United States only from rumor, without the knowledge of their dates, it is proper that, on exchanging the ratifications, your government should know that, whatever the date of those grants may have been, it was fully understood by us that they are all annulled by the treaty, as much as if they had been specially named, and that they will be so held by the United States. To avoid any possible misconception, your answer to this statement is requested; and the exchange of the ratifications will be made, under the explicit declaration and understanding that all the abovementioned grants, and all others derived from them, are null and void.

I pray you to accept the assurances of my distinguished consideration

JOHN QUINCY ADAMS.

Don Louis de Onis to the Secretary of State.

[TRANSLATION.]

Sir: I have received the note you were pleased to address to me, of this day's date; in which you state that, by the eighth article of the treaty, signed by us on the 22d of last month, it was agreed, on the part of the United States, that all grants of land in the Floridas, made by his Catholic Majesty, or his legitimate authorities, subsequent to the 24th January, 1818, are declared to be null and void, with a full understanding that it included the grants alleged to have been made in the course of the preceding winter, by the King, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas; and that, therefore, you request of me a declaration that, whatever, the date of those grants may have been, it was fully understood by us that they are annulled by the treaty, as much as if they had been specially named.

With the frankness and good faith which have uniformly actuated my conduct, and which distinguish the character of the Spanish nation, I have to declare to you, sir, that, when I proposed the revocation of all the grants made subsequent to the date abovementioned it was with the full belief that it comprehended those made to the Duke of Alagon, as well as any others which had been stipulated at that period.

But, that at the same time that I offer you this frank, simple, and ingenious declaration, I have to express to you that, if my conception had been different, or if it had appeared to me that any of those grants were prior to the date abovementioned, I would have insisted upon their recognition, as the honor of the King, my master, and the unquestionable rights of his sovereignty of his posses-

ions, and the disposal of them, obviously required.

I will hasten to transmit to my government due information of the whole; and, impressed, as I am, with the conviction of his Majesty's most earnest desire to meet the wishes of the President, I persuaded myself that he will, with pleasure, participate in that sentiment, by admitting the explicit declaration which you have requested of me. In the mean time, I beg you will favor me with your answer to the explanations I requested yesterday, in relation to the late act of Congress concerning piracy.

Be pleased to accept the assurance of my distinguished consideration. God preserve you many years.

LOUIS DE ONIS.

Washington, 10th March, 1818.

The Secretary of State to Mr. Forsyth.

Department of State,

Washington, 10th March, 1819.

John Forsyth, Minister Plenipotentiary to Spain:

Sir: By the eighth article of the treaty of amity, settlement, and limits, between the United States and Spain, signed on the 22d of last month, all the grants of lands made by his Catholic Majesty, or by his lawful authorities, since the 24th of January, 1818 in the territories ceded by H. C. M. to the United States, in the Floridas, are declared, and agreed to be, null and void. This date was proposed by Mr. Onis, and acceded to on the part of the United States, with a full and clear understanding on both sides, that the grants made, or alleged to have been made, in the course of the preceding winter, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, were among those agreed and declared to be null and void. Copies of the grants to the count of Punon Rostro and to Mr. Vargas, in the form of orders to the Governor Gen of the island of Cuba, and to the Governor of the Floridas, has been transmitted to this Department by Mr. Erving; the first of which bears date the 6th of February, and the second the 12th of March, 1818; but no copy has been received of that to the Duke of Alagon. As, however, the authenticity of these documents might be denied, and the grants have never been made public, it is proper that the possibility of any future question, with regard to those grants, should be guarded against; for which purpose the form of a declaration is enclosed, which it will be proper for you to deliver, on exchanging the ratifications of the treaty, to the Spanish Minister with whom you will make the exchange. The fact of the mutual understanding, that those grants were annulled by the treaty, is fully and explicitly admitted by Mr. Onis, in his answer dated this day; to a note from me on this subject: copies of which, with a translation of his answer, are herewith enclosed. It is not anticipated that any objection will be made to receiving the declaration; if, however, there should be, you will, nevertheless, exchange the ratifications, it being sufficient to give the notice and the proof of the understanding, on both sides, of the operation of the article and of the effect which will be given to it on the part of the United States.

I am, with much respect, &c.

(Signed.) JOHN QUINCY ADAMS.

Form of the Declaration referred to in the preceding letter.

The undersigned Minister Plenipotentiary from

the United States at the court of His Catholic Majesty, is commanded by the President of the United States to explain and declare, upon the exchange of the ratifications of the treaty of amity, settlement, and limits, between the United States and H. C. M. signed by the respective Plenipotentiaries, at Washington, on the twenty second day of February last, that, in agreeing upon the 24th day of January, 1818, as the date, subsequent to which, all grants of land, made by H. C. M. or by his legitimate authorities, in the Floridas, were declared to be null and void, it was with a full and clear understanding between the Plenipotentiaries of both the high contracting parties, that, among the grants thus declared null and void, were all these made, or alleged to have been made, in the course of the preceding winter, by H. C. M. to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, and all others derived from them. And the ratifications of the treaty are exchanged, under the explicit declaration and understanding that all the said grants are null and void, and will be so held by the United States,

Madrid, ———, 1819.

The secretary of state to the minister of France.  
Mr. Hyde de Neuville, Envoy Extraordinary and Minister Plenipotentiary from France.

Washington, 17th March, 1819.

Sir: By the eighth article of the treaty lately concluded between the United States and Spain, all grants of land made by the King of Spain, or his legitimate authorities, in Florida, before the 24th of January, 1818, are confirmed on certain conditions: all those made after that date are declared null and void.

Since the conclusion of the treaty, a rumor has been circulated, that certain grants, made by the King of Spain, in the course of the preceding winter, to the Duke of Alagon, the Count of Punon Rostro, and Mr. Vargas, were made on the 23d of January, 1818. Mr. Forsyth has therefore been instructed, on exchange of the ratifications of the treaty, to declare that it was fully and explicitly understood on both sides, at its signature, that all those grants, and all others derived from them, were, by the treaty, included among those declared to be absolutely null and void. Mr. de Onis himself, in answer to a note from me, has readily declared that such was his understanding. From the friendly part taken by you, in concert with Mr. de Onis, in this negotiation, you were apprized of all the circumstances attending it: and I have to request that you would have the goodness to state your impressions on the subject, particularly in relation to the absolute nullity of those grants, and, as far as you think proper, the facts in connection with this transaction, which you have mentioned to me in conversation.

I pray you, sir, to accept the assurance of my distinguished consideration.

JOHN QUINCY ADAMS.

The minister of France to the secretary of state.

[TRANSLATION.]

Legation of France in the United States:

Washington, 18th March, 1819.

Sir: I was very sure, and you were of the same opinion, that, to destroy the rumor which had been spread, it would suffice to inform the Minister of Spain of it. The loyalty which characterizes him



did not permit the smallest uneasiness on the subject. After the declaration of Mr. Onís, mine can be of no importance; however, as you desire (in case the mistake of date should be real) that the fact resulting from the treaty should be well established, and by all those persons who took part, directly or indirectly, in the transaction, I have the honor, sir, to declare to you, in the most formal manner, that it has been understood, always understood, by you, by the Minister of Spain, and, I will add, by myself, that the three great grants of land made to the Duke of Alagon, to the Count of Punon Rostro, and to Mr. Vargas, were of the number of those annulled.

The date of the 24th of January was proposed and accepted in the complete persuasion, on one part and the other, that these three great grants were subsequent to it.

I will add, sir, because it is the exact and pure truth, that having been charged by Mr. Onís, during his illness, to discuss with you several articles of the Treaty, particularly the eighth article, you consented to the drawing up of this article more in conformity with the desire of the Spanish Minister, only on the admission, as a fact beyond doubt, that the three principal grants were and remained null, and as not having taken place. Mr. Onís has not ceased thus to understand it. He has explained himself upon it frankly and loyally, as well since as before the treaty. The mistake of date, if it exists, can, then, give birth to no difficulty whatever at Madrid. The good faith of Mr. Onís, that of his government, are guarantees too strong to render any other explanations necessary. Between governments, as between individuals, the same laws of honor and probity govern transactions. The convention exists only by the convention; therefore, sir, in this case the simple statement of the fact will be sufficient to rectify the mistake.

In answering, sir, immediately, the letter which you did me the honor to write to me, I embrace with much pleasure this new opportunity to assure you of the high consideration with which I have the honor to be, &c. G. HYDE DE NEUVILLE.

Hon. Mr. Adams, secretary of state.

Observations on the eighth article of the Treaty of the 22d February, 1819, between the United States and Spain, submitted to Mr. de Neuville, 14th July, 1819.

It will be recollected by Mr. de Neuville, that, on the 15th of February last, Mr. de Onís being confined to his house by indisposition, Mr. de Neuville, at his request, had a conversation with Mr. Adams, in which were discussed the project of a treaty which had been delivered, on the 9th of February, by Mr. de Onís, to Mr. Adams, and the counter project sent by Mr. Adams to Mr. de Onís, on the 13th of the same month.

The ninth article of the project of Mr. Onís was in these words:

"All the grants of land made by his Catholic Majesty, or by his legitimate authorities, in the aforesaid territories, of the two Floridas, and others which his Majesty cedes to the United States, shall be confirmed and acknowledged as valid, excepting those grants which may have been made after the 24th January of last year, the date that the first proposals were made for the cession of those provinces, which shall be held null in consideration of the grantees not having complied with the conditions of the cession."

The eighth article of the counter-project sent by Mr. Adams was as follows:

"All grants of land made by or in the name of his Catholic Majesty, in the aforesaid territories, after the 24th January, 1818, shall be held null, the conditions of the said grants not having been performed by the grantees. All grants made before that date, by his Majesty, or by his legitimate authorities, the conditions of which shall have been performed by the grantees, according to the tenor of the respective grants, and none other, shall be confirmed and acknowledged as valid."

Mr. de Neuville's particular attention is requested to the differences between the two projected articles, because it will recall particularly to his remembrance the point upon which the discussion concerning this article turned. By turning to the written memorandum drawn by Mr. de Neuville himself, of this discussion, he will perceive he has noted that Mr. de Onís insisted, "that this article could not be varied from what was contained in the chevalier's project, as the object of the last clause therein was merely to save the honor and dignity of the sovereignty of his Catholic Majesty."

It was then observed by Mr. Adams, that the honor and dignity of His Catholic Majesty would be saved by recognizing the grants prior to the 24th of January, as "valid to the same extent as they were binding on His Catholic Majesty," and he agreed to accept the article as drawn by Mr. Onís, with this explanation, (see Mr. de Neuville's memorandum.) It was on this occasion that Mr. de Neuville observed, that if the grants prior to January 24, 1818, were confirmed only to the same extent that they were binding on the King of Spain, there were many *bona fide* grantees, of long standing, in actual possession of their grants, and having actually made partial settlements upon them but who had been prevented, by the extraordinary circumstances in which Spain had been situated, and the revolutions in Europe, from fulfilling all the conditions of the grants; that it would be very harsh to leave these persons liable to a forfeiture, which might, indeed, in rigor, be exacted from them, but which very certainly never would be, if they had remained under the Spanish dominion. It will be well remembered by Mr. de Neuville how earnestly he insisted upon this equitable suggestion, and how strongly he disclaimed for Mr. Onís, every wish or intention to cover, by a provision for such persons, any fraudulent grants. And it was then observed by Mr. de Neuville, that the date assumed, of 24th January, of 1818, was not sufficient for guarding against fraudulent grants, because they might be easily antedated. It was with reference to these suggestions of Mr. de Neuville, afterwards again strenuously urged by Mr. de Onís, that the article was finally modified as it now stands in the treaty, declaring all grants subsequent to 24th January, 1818, absolutely null, and those of prior date valid to the same extent only that they would have been binding upon the King, but allowing to *bona fide* grantees, in actual possession, and having commenced settlements, but who had been prevented by the late circumstances of the Spanish nation and the revolutions in Europe, from fulfilling all the conditions of their grants, time to complete them. It is needless to observe, that, as these incidents do not apply to either of the grants to Alagon, Punon Rostro, or Vargas, neither of those grants is confirmed by the tenor of the article as it stands; and that it is perfectly immaterial, in that respect, whether they were dated before or after the 24th January, 1818, it being admitted on all sides, that these grants were not binding upon



the King, conformably to the Spanish laws. The terms of the article accord precisely with the intentions of all the parties to the negotiation and the signature of the treaty. If the dates of the grants are subsequent to 24th January, 1818, they are annulled by the date; if prior to that date, they are null because not included among the prior grants confirmed.

[To be continued.]

## HOUSE OF REPRESENTATIVES.

December 14. [CONTINUED]

### RESTRICTION ON SLAVERY.

Mr Taylor, of New-York, said he rose to invite the attention of the house to a subject of very great moment. The question of slavery in the territories of the United States west of the Mississippi, it was well known; had at the last session of Congress excited feelings, both in the house and out of it, the recurrence of which he sincerely deprecated. All who love our country, and consider the union of these states as the ark of its safety, must ever view with deep regret sectional interests agitating our national councils. Mr T. said he could not himself, nor would he ask others, to make a sacrifice, of principle to expediency. He could never sanction the existence of slavery where it could be excluded consistently with the constitution and public faith. But it ought not to be forgotten that the American family is composed of many members: if their interests are various, they mutually must be respected—if their prejudices are strong, they must be treated with forbearance. He did not know whether conciliation were practicable, but he considered, its attainment worthy of an effort. He was desirous that the question should be settled in that spirit of amity and brotherly love which carried us through the perils of a Revolution, and produced the adoption of our Federal constitution. If the resolution he was about to introduce, should be sanctioned by the house, it was his purpose to move a postponement of the Missouri bill to a future day, that this interesting subject, in relation to the whole western territory, may be submitted to the consideration of a committee. Mr T. then introduced the following resolution:

"Resolved, That a committee be appointed to enquire into the expediency of prohibiting by law the introduction of slavery into the territories of the United States west of the Mississippi."

Mr. Strother made a few remarks, the purport of which was, that, although the question was already before the House, as involved in the bill for admission of the Missouri Territory into the Union; yet, when a proposition was made having for its object a compromise of conflicting opinions, it became members to meet it in a spirit of harmony. He proposed, however, that the proposition should lie on the table till to-morrow, to give time for reflection on it. Mr Taylor assenting to this course—The motion was agreed to:—adjourned.

DECEMBER 16.

Mr. Ervin, of South-Carolina, ought to have been noticed as having taken his seat yesterday.

Mr. Meech, from N. York, and Mr. Hall, from Delaware, appeared and took their seats.

Mr. Rhea, of Ten. made an unfavorable report on the petition of Zach. Roberts: which,

on the suggestion of Mr. Smith, that farther evidence on the subject of this petition might be presented to the House, was ordered to lie on the table. Mr. Rhea also made an unfavorable report on the petition of Jesse Dow; which was agreed to.

Mr. Campbell, of Ohio, from the committee on private land claims, made a report on the petition of the legal representatives of Philip Barbour, deceased, accompanied by a bill for his relief; which was twice read and committed.

Mr. Anderson, from the committee of Public Lands, made a report on the petition of James Hughes, accompanied by a bill for his relief; which was twice read and committed.

Mr. Sergeant, from the committee on the Judiciary, reported a bill for establishing an uniform system of Bankruptcy throughout the United States; which was twice read and committed.

Mr. Newton, from the committee on Commerce, reported a bill for the relief of Beck and Harvey; which was twice read and committed.

On motion of Mr. Tyler, the House proceeded to the consideration of the report of the committee of Claims unfavorable to the petition of Samuel G. Adams.

Mr. T. moved to reverse the report, and directed the Committee of Claims to report a bill for his relief. [The case is substantially this: S. G. Adams was commander of a detachment of militia during the late war; and, on their being discharged, he, as agent for those under his command, the paymaster being without funds, received his *due-bill* for the amount, and gave a receipt on the payroll. For the payment of this bill he applies to Congress. The committee report, that the responsibility for the amount of the pay, had, by the transaction above described, been transferred from the government to the individual who was the paymaster, and who gave the bill—and that therefore the prayer of the petitioner is not reasonable, and ought not to be granted.]

After some opposition the report was concurred in.

DECEMBER 17.

Mr. Rhea made unfavorable reports on the petitions of John Carman, Daniel Carman, and Elihu Pond, who severally pray to be placed on the pension list; and the reports were agreed to.

Mr. Campbell, from the committee on private land claims, made unfavorable reports on the petitions of Wm. Draggio and Thomas Lusby, and the reports were concurred in.

The Speaker laid before the House a Letter from the Secretary of the Treasury, transmitting a statement of exports from the United States during one year ending on the 30th September, 1819; and also

a letter from the Commissioner of the Revenue, transmitting the annual statement of the proceeds of the Direct Tax, and Internal Duties, &c.

Mr. Rich, of Vermont, offered for consideration the following resolution.

Resolved, That the committee of claims be instructed to prepare and report a bill providing for the distribution of a sum of money among such of the citizens of the United States as lost their property in consequence of the general conflagration by the enemy on the Niagara frontier during the late war."

And the resolution was ordered to lie on the table.

On motion of Mr. Whitman, it was

Resolved, That the Secretary of War be directed to report to this House a statement of the expense of furnishing the Army of the United States with rations for the term of one year, ending on the 14th of April, 1818, exhibiting the average cost per ration, and also of the expense of furnishing the Army with rations: exhibiting also the average cost per ration, for the term of one year, under the provisions of the law, passed on the 14th of April, 1818, entitled "An act to regulate the Staff of the Army."

On motion of Mr. Ross, of Ohio, it was

Resolved that the committee on Public Lands be instructed to enquire into the expediency of providing by law for the future sale of public lands in half quarter sections; and of the propriety of reducing the present price.

On motion of Mr. Robertson, of Ky. it was

Resolved, That the committee on Public Lands be and the same are hereby, instructed to enquire into the expediency of so altering the laws regulating the sales of the vacant lands of the United States, that, from and after the — day of —, no credit shall be given thereon, and a less quantity may be purchased, and at a less price, than is authorized by the existing laws.

On motion of Mr. Woodbridge, it was

Resolved, That the committee on Public Lands be instructed to enquire into the expediency of providing by law for the final adjustment of the ancient titles to land within the Territory of Michigan.

Mr. Warfield offered for consideration the following resolve:

Resolved, That the committee on the Judiciary be instructed to enquire into the expediency of increasing the pay of Jurors for the Circuit Courts of the United States for the district of Maryland

The resolution, having been amended by extending it to the District Courts, and by striking out the concluding words in *italic*, so as to make the enquiry general, was agreed to.

The House spent some time in committee of the whole, Mr. Livermore in the chair, on the bill for the benefit of Thomas Carr, and others, but, without having gone through the same, reported progress and had leave to sit again.

In like manner, some time was spent in committee of the whole, Mr. J. S. Smith in the chair, on the bill for the relief of L. J. Beaulieu.

Mr. Livermore being one of the majority who yesterday voted to reject the bill for the relief of J. Gooding and T. Williams, moved now to reconsider the said vote; which motion was decided in the negative.

The House adjourned to Monday.

DECEMBER 20.

Mr. Rhea, from the committee on Pensions and Revolutionary Claims, made unfavorable

reports on the petitions of Edward Kain, of John Brooks, of George Claghorn, and of Francis Luscomb, which were severally read and concurred in.

Mr. Campbell, of Ohio, from the committee on Private Land Claims, made an unfavorable report on the petition of Julian Merceau, which was read and concurred in.

Mr. Smith, of Md. from the committee of Ways and Means, reported a bill in addition to the act making appropriations for the support of the Navy for the year 1819; also a bill making a partial appropriation for the military service of the United States for the year 1820; which bills were twice read and committed.

Mr. Williams, of N. C. made an unfavorable report on the petition of Asa Fuller, and of Charles Townsend and Jonas Williams, which were read and severally concurred in.

Mr. Sergeant, from the committee on the Judiciary, to whom was referred an enquiry into the expediency of increasing the pay of jurors in the Circuit and District Courts of the United States, made a report stating that the pay at present allowed, is one dollar and twenty-five cents a day, for each day's attendance, and five cents a mile in travelling to and from court; that the committee are not aware of any good reason for encreasing this compensation; and requesting to be discharged from the further consideration of the subject. The report was read and agreed to.

Mr. Sergeant, from the select committee appointed on the memorial of the surviving Officers of the Revolutionary Army, made a report thereon, favorable to the prayer of the petitioners, accompanied by a bill for their relief; which was twice read and committed.

The following Message was received from the President of the United States, by the hands of Mr. J. J. Monroe, his Secretary.

To the Senate and House of Representatives of the United States.

Some doubt being entertained respecting the true intent and meaning of the act of the last session, entitled "An act in addition to the acts prohibiting the slave trade," as to the duties of the agents to be appointed, on the coast of Africa, I think it proper to state the interpretation which has been given of the act, and the measures adopted to carry it into effect, that congress may, should it be deemed advisable, amend the same, before further proceeding is had under it.

The obligation to instruct the commanders of all our armed vessels to seize and bring into port all ships or vessels of the United States, wheresoever found, having on board any negro, mulatto, or person of color, in violation of former acts for the suppression of the slave trade, being imperative, was executed without delay. No seizures have yet been made, but as they were contemplated by the law, and might be presumed, it seemed proper to make the necessary regulations applicable to such

seizures for carrying the several provisions of the act into effect.

It is enjoined on the Executive to cause all negroes, mulattoes, or persons of color, who may be taken under the act, to be removed to Africa. It is the obvious import of the law, that none of the persons thus taken should remain within the United States: and no place other than the coast of Africa being designated, their removal or delivery, whether carried from the United States or landed immediately from the vessels in which they were taken, was supposed to be confined to that coast. No settlement or station being specified, the whole coast was thought to be left open for the selection of a proper place, at which the persons thus taken should be delivered. The Executive is authorised to appoint one or more agents, residing there to receive such persons, and one hundred thousand dollars are appropriated for the general purposes of the law.

On due consideration of the several sections of the act, and of its humane policy, it was supposed to be the intention of Congress, that all the persons above described, who might be taken under it and landed in Africa, should be aided in their return to their former homes, or in their establishment at or near the place where landed. Some shelter and food would be necessary for them there, as soon as landed, let their subsequent disposition be what it might. Should they be landed without such provision having been previously made, they must perish. It was supposed, by the authority given to the Executive to appoint agents residing on that coast, that they should provide such shelter and food, and perform the other beneficent and charitable offices, contemplated by the act. The coast of Africa having been little explored, and no persons residing there, who possessed the requisite qualifications to entitle them to the trust, being known to the Executive, to none such could it be committed. It was believed that citizens only, who would go hence, well instructed in the views of their government, and zealous to give them effect, would be competent to these duties and that it was not the intention of the law to preclude their appointment. It was obvious that the longer these persons should be detained in the United States, in the hands of the marshals, the greater would be the expense, and that for the same term would the main purpose of the law be suspended. It seemed, therefore, to be incumbent on me to make the necessary arrangements for carrying this act into effect in Africa, in time to meet the delivery of any persons who might be taken by your public vessels, and landed there under it.

On this view of the policy and sanctions of the law, it has been decided to send a public ship to the coast of Africa, with two such agents, who will take with them tools and other implements necessary for the purposes above mentioned. To each of these agents a small salary has been allowed—1500 dollars to the principal, and 1200 to the other. All our public agents on the coast of Africa receive salaries for their services, and it was understood that none of our citizens, possessing the requisite qualifications, would accept these trusts, by which they would be confined to parts the least frequented and civilized, without a reasonable compensation. Such allowance, therefore, seemed to be indispensable to the execution of the act.

It is intended also to subject a portion of the sum appropriated, to the order of the principal agent, for the special objects above stated, amount-

ing in the whole, including the salary of the agents for one year, to rather less than one-third of the appropriation. Special instructions will be given to these agents, defining, in precise terms, their duties in regard to the persons thus delivered to them; the disbursement of the money by the principal agent; and his accountability for the same. They will also have power to select the most suitable place on the coast of Africa, at which all persons who may be taken under this act, shall be delivered to them, with an express injunction to exercise no power founded on the principle of colonization, or other power than that of performing the benevolent offices above recited, by the permission and sanction of the existing government, under which they may establish themselves. Orders will be given to the commander of the public ship, in which they will sail, to cruise along the coast, to give the more complete effect to the principal object of the act.

JAMES MONROE.

Washington Dec. 17th, 1819.

The Message was read, and, on motion of Mr. Lincoln, referred to the committee on the slave trade, and ordered to be printed.

The following Message was also received from the President of the United States:

*To the Senate and the House of Representatives of the United States.*

In compliance with a resolution of Congress of 27th March, 1818, the journal, acts and proceedings of the Convention which formed the present constitution of the United States, have been published. The resolution directs that one thousand copies should be printed, of which one copy should be furnished to each member of the Fifteenth Congress, and the residue to the future disposition of Congress. The number of copies sufficient to supply the members of the late Congress having been reserved for that purpose, the remainder are now deposited at the Department of State, subject to the orders of Congress. The other documents mentioned in the resolution of 27th March, 1818, are in process of publication.

JAMES MONROE.

Which message was read, and ordered to lie on the table.

Mr. Trimble, of Kentucky, submitted the following resolutions:

Resolved, That the committee on Ways and Means be instructed to enquire into the expediency of repealing all laws whereby a credit is allowed upon duties accruing on imports and tonnage.

Resolved, That the same committee be instructed to enquire into the expediency of repealing all laws allowing drawback.

Mr. Trimble said that he had some doubts whether he had selected the proper committee to make the proposed enquiry. It had direct relation to the fiscal operations of the country, and, for that reason, belonged to the family of subjects in charge of the committee

of Ways and Means; but, in its scope and consequences, it undoubtedly involved the interests of commerce and domestic manufactures. A few days since, said Mr. T. the House was called on to resolve a kind of divorce between commerce and manufactures; and it was then said, that their interests were in many respects hostile to each other. If the committee on those subjects should find any conflict of interests, (which he hoped they would not,) the committee of Ways and Means, being in amity with each of these, would maintain relations of neutrality with both. Referring to the substance of the proposed enquiry, he said that it would probably have to be made at some future period of the session, and he thought it time to call the attention of gentlemen to the subject. The annual Report from the Treasury Department has been laid upon our tables, and it is known to all of us, said Mr. T. that there is a deficit in the revenue of five million of dollars, which sum must be raised to meet the expenditures of the next year; and this deficit will be greatly increased, if the tariff shall be raised for the purpose of encouraging domestic manufactures. To this we must add five millions more, to pay the claims assumed by our Government, under the late treaty of Spain. It must not be forgotten, that we are called upon to perform the treaty on our part, and to force a compliance on the part of Spain. If we resolve to occupy the Floridas, ways and means must be found to raise ten millions of dollars for the next year, beyond the estimated income of the Treasury. We ought also to be prepared for the contingencies of that movement.

Another view of the subject, said Mr. T. is equally important, or more so. It is well known that ours is the only government that allows a credit for duties on imports and tonnage. In all other countries they are made payable in cash. It is true, that some nations make a difference between duties on imports and duties on consumption. France is an instance; but the difference is not so material as to require explanation at present. By our revenue laws, bonds at six and nine months are taken for duties on all articles (except salt) imports by sea, the produce of foreign places or islands, situated on the eastern shores of America, north of the equator; and the duties on imports from all other ports and places are bonded at a credit of 8, 10 and 18 months, payable in equal sums. Gentlemen, he said could easily satisfy themselves that the merchant importers have a constant loan of about 20 millions of dollars, and the Treasury in that respect, may be considered

a kind of loan office, to encourage importation.

It was believed, he said, that this system of long credits operated as a bounty to export *specie*, and as a premium to discourage the exportation of our home produce. That it operated as a *bounty* to promote importations, and *discourage domestic manufactures*, was a true fact, capable of the clearest demonstration. If such, he said, is the tendency of the present system, it is time to begin a revision. The result of the enquiry will show what encouragement can be given to domestic manufactures, beyond the cash payments of duties.

Mr. T. thought the proposed change of such importance to the importers, that they ought to have fair notice of it. As a body, he knew them to be numerous and respectable, and he had no wish, on his part, to spring the question on them by surprise or stratagem; their objections when matured, if they have any, may afford light on the subject.

As to the drawback, he would only say, that some attempts had been made, as he was informed, to pay the duties in depreciated currency, and get the drawback in good paper. This, if true, ought to be corrected. He did not know that he should be in favor of repealing the drawback laws, but some regulations would have to be made on that branch of the revenue, and it was best perhaps to present it and the other subject at the same time.

Mr. Smith, of Md. expressed his satisfaction that Mr. Trimble had thus early brought forward his motion; but, he observed, if Mr. T. should succeed in his object, it would be laying the axe to the old system of revenue. Had it not been for the drawback system, Mr. S. said, the revenue of the country would never have been what it was—but for that system the public debt would never have been paid. This was a motion, he said, of vital importance; and he repeated his pleasure that it had been introduced in time to give it a full consideration.

A motion was made by Mr. Silsbee, to lay the resolution on the table and print it; which, after a remark or two from Mr. Warfield, Mr. Rhea, and Mr. Trimble, in which Mr. T. assented to the course proposed, the motion prevailed, and the resolution was laid on the table accordingly.

¶ In order to furnish to our readers, the documents accompanying the President's Message of the 7th inst. with all possible despatch, we have been obliged to postpone a considerable portion of the congressional journal, which will be brought up in the next number.

Any reasonable quantity of numbers that may have been mis-carried or lost, will be replaced on application, postpaid, to the editor.

JONATHAN ELLIOT.

City of Washington, December 25, 1819.



# THE NATIONAL REGISTER.

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## Contents of this No. of the National Register.

Documents on Spanish Affairs, concluded, 1 to 12—Foreign Affairs, (containing an abstract of the Prince Regent's Speech and various items of late English news) 12—Congressional proceedings 14 to 16.

## DOCUMENTS.

Documents transmitted to both houses of Congress with the message of the President of the 7th of Dec. 1819. [CONCLUDED.]

No. 2.

The Secretary of State to Mr John Forsyth.  
JOHN FORSTRE, Esq. Minister Plenipotentiary  
of the United States, Madrid

Department of State,  
Washington, 18th Aug. 1819.

Sir: Captain Read, of the Hornet, has delivered to me your despatches of the 10th, 17th, and 22d of June, which have been submitted to the consideration of the President.

However extraordinary the conduct of the Spanish government in relation to the treaty, signed on the 22nd of February last, has been, the President is unwilling to abandon the hope, that, within the period of six months, allowed for the exchange of the ratifications, a sense of justice and of decent regard for the public faith of the king and nation, solemnly pledged by the treaty, will prevail over the individual intrigues and lurking influence which prompted the delay that has taken place—Should this expectation, however, be disappointed, and should the treaty remain unratified by Spain at the time when you shall receive this despatch, you will immediately make an official communication to the Minister of Foreign Affairs, stating that the ratification of Spain, with the explicit understanding on her part, that the alleged grants to the Duke of Alagon, Count Puncion Rostro, and Mr Vargas, and all others which may have been made under the same circumstances are, by the 8th article of the treaty, null and void, will be so held by the United States, and will not be accepted as valid; and that you are authorised to receive the Spanish ratification in exchange for that of the United States, though after the lapse of the stipulated six months: provided the exchange shall be immediate, and in such time that you can despatch the ratified treaty by the messenger who will be the bearer of this, in season to arrive here before the meeting of Congress on the first Monday in December; that, if the ratified treaty should not arrive here at that time, a full communication will be made by the President to Congress, of all the transactions relating to the treaty, and such measures will be adopted by that body as they shall think required by the exigency of the case; that, whatever their determination may be, the Spanish Government will be responsible to the United States for all damages and expenses which may arise from the delay or refusal of Spain to ratify, and from the measures to which the United States may resort, to give efficacy to their

rights: and that, for the indemnities to which they will be justly entitled, for this violation of faith by Spain, the United States will look to the territory west of the Sabine river.

The only reason assigned by the Minister of State, ad interim, Salmon, for the postponement of the Spanish ratification, was, the determination of the King, founded upon the great importance of the treaty, to act upon it with full deliberation. This may have been sufficient to justify delay within the period stipulated by the treaty; but after the expiration of that period, can no longer be alleged. Delay beyond that period will be a breach of faith; for the treaty, so far as it respects, from the moment of its signature by Mr Onis, and the ratification of the United States, was as binding upon the honor and good faith of the Spanish king and nation, as it would be after the ratification. It is scarcely supposable that Spain will contest this position, or that it should be necessary to present it to her view in the following terms, of the full power of Mr Onis, the original of which, signed by the King of Spain, was delivered to me before the signature of the treaty. The words of his Catholic Majesty are, after authorising Mr. Onis to treat, "negotiate, and conclude a treaty, whereby past differences may be adjusted, and a firm and lasting peace established between the two Governments; obliging ourselves, as we do hereby oblige ourselves, and promise, on the faith and word of a King, to approve, ratify, and fulfil, and to cause to be inviolably observed and fulfilled, whatsoever may be stipulated and signed by you; to which intent and purpose, I grant you all authority and full power, in the most ample form, thereby as of right required." If language so explicit and unqualified were in regard to its import, susceptible of any doubt, founded on the usage which requires the ratification of the sovereign, for the full consummation of a treaty, there is nothing dubious or uncertain in the extent of obligation resting upon him by the signature of his Minister, vested with such a full power. The following passages from Vattel and Martens are decisive authorities upon the principle:

"Sovereigns treat together by the agency of their attorneys or mandatories, clothed with sufficient powers; they are commonly called Plenipotentiaries. All the rules of the law of nature, concerning things performed by commission, are here applicable. The rights of the agent are defined by the authority given him. From this he must not depart; but whatever he promises, within the terms of his commission, and according to the extent of his powers, is binding upon his constituent."

"At this time, to avoid all danger and difficulty, Princes reserve to themselves the right of ratifying, that which has been concluded by their minister, in their name.—The full power is merely a com-

"Obligándonos y prometemos en fe y palabra de Rey que aprobaremos, ratificaremos, cumpliremos y haremos observar y cumplir invariablemente quanto por vos fuere estipulado y firmado para lo qual os concedo todas las facultades y plenos poderes en la forma mas amplia que de derecho se requieren."